IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3599 OF 2002
(FOR CONDONATION OF DELAY)
IN
CRIMINAL APPLICATION NO.1267 OF 2005
(FOR LEAVE TO FILE AN APPEAL)

The State of Maharashtra ..Applicant

Versus

Shri Prabhakar Tukaram Pokle and Ors. ..Respondents

Mrs.V.R.Bhosale, Addl.Public Prosecutor for the Applicant.

Coram : R.M.LODHA & R.S.MOHITE,JJ

Date : 11.03.2005.

PC

. The office report dated 10.3.2005 shows that respondent nos.1 to 6 have been served. It appears that respondent no.6 has filed an affidavit-in-reply in opposition to the application for condonation of delay. However, nobody appears for the respondents to oppose the application for condonation of delay.

2. The State has preferred Criminal appeal (now converted into Criminal application for leave to file an appeal) challenging the legality and correctness of the Judgment of acquittal dated 13.2.2001. The Criminal appeal (now Criminal application for leave to file appeal) suffers from delay of 139 days. The cause for delay is sought to be explained by the facts averred in paragraphs-2, 3 & 4 of the application. It is true that the concerned officials of the State Government moved

after the certified copies of the impugned Judgment were received on 31.1.2002. However looking to the subject matter of the case and the evidence that was produced by the prosecution if the Law & Judiciary Department needed certified copies of notes of evidence before taking decision and the further course of action, it cannot be said that there was unnecessary delay on the part of the Law & Judiciary Department and the concerned officials. Though in the reply affidavit the respondent no.6 has sought to deny the facts averred in the application, in our considered view the denial is only bald because the facts averred in the application pertain to the record and could only be in the knowledge of the officials of the State Government. Be that as it may, as already noticed above nobody has appeared on behalf of the respondents in opposition to the application for condonation of delay.

3. We are thus satisfied that the applicant was prevented by sufficient cause in filing the Criminal appeal (now converted into Criminal application for leave to appeal) in time.

4. Delay is condoned.

5. Criminal application stands disposed of.

(R.M.LODHA,J)

(R.S.MOHITE,J)

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. By a separate order passed by us today, we have condoned the delay. Office is directed to call for Record & proceedings and then post Criminal application for consideration.

(R.M.LODHA,J)

(R.S.MOHITE,J)